



michigan municipal league

# MEMO

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<b>to</b>	Sen. David B. Robertson	<b>from</b>	Nikki Brown, Michigan Municipal League
<b>subject</b>	SB 313 Concerns	<b>date</b>	September 24, 2013

Below is a list of our concerns with SB 313 dealing with rental inspections. My contact information is at the end should you want to discuss this further.

**1. Registration Fees and Inspection Fees: Section 125 (4) and Section 126 (12) (b):**  
*Limitations on registration and inspection fees.*

- Registration fees have to be charged yearly or else the local community is not going to have the funds to run the inspection program. The language in Section 1 (4) lines 14-22 should be removed to allow our locals the ability to fund their program.
- Registration fees CANNOT exceed the cost of the program. If a community were found to be doing this, it would already be violating both statute and the constitution. The *Bolt vs. Lansing* Michigan Supreme Court decision said that any monies collected for a service yet used for another purpose (general fund, etc) is a tax and not a fee according to the Michigan Constitution. Fees can only be used towards the purpose for which they have been collected. Specifically, the decision said that a fee must serve a regulatory purpose rather than a revenue-raising purpose and said that a user fee must be proportionate to the necessary costs of the service. Additionally, the Housing Code of Michigan (1917 PA 167, Sec. 126(12)) says, "The fee shall not exceed the actual, reasonable cost of providing the inspection for which the fee is charged."
- Different communities charge different fees in order to pay for their specific program. For example, if the program for community A costs \$50,000 and they have 1000 rentals, then they can charge maximum \$50 per rental. If the program for community B costs \$50,000 and they have 2000 rentals, then they can charge maximum \$25 per rental. With the economic downturn, it has been harder for people to sell their houses over the last several years. Many communities have seen increases in rentals and have instituted rental housing registration and inspection programs. As such, they need to recapture their costs. Some communities don't charge the full amount and subsidize this with general fund dollars (taxpayer millage dollars), but that is becoming less and less of a possibility with communities needing to spend taxpayer dollars on police and fire and roads instead of subsidizing the inspection programs for apartment owners.
- Capping the amount that the local enforcing agency may charge will simply move the cost from the landlord to the taxpayers. The local unit of government must pay for the rental housing inspection program if they have one. Capping the amount they can charge for fees at below what is actually needed to run the program will result in taking funds out of the general fund (residential and business taxpayer dollars). Thus, if the fee is capped, landlords will be subsidized by residents and other



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businesses in order to ensure safety and property maintenance of these rental units. Homeowners and businesses in the community would surely rather that the landlord pay the fee for inspection of the rental unit.

- Making the fee based on the average inspection fee in the most populous communities in Michigan will result in some communities that have residents and businesses subsidize the program for the landlords. In other communities, it will result in too much money collected that would have to be returned because the community cannot collect more in fees than the program costs.

**2. Recurrent Violators Inspection Deletion:** *Section 126 (4) ( c): deletion of ability to inspect recurrent violators more frequently.*

- We would be interested in knowing why this section was deleted. If there are known frequent violators, local communities should have the discretion of inspecting those units more often to ensure the safety of the lessees.

**3. Multifamily Inspection Timeframes:** *Section 126 (1) line 4: inspections not less than 6 years but no more than 10 years.*

- Extending the timeframe in which an inspection is allowed to be conducted is a major concern for our members. These communities are responsible for making sure the units are safe for lessees to be living there and putting in a restriction as to the earliest they can inspect ties their hands. We are okay with a provision allowing for no more than 10 years at the high end of an inspection but placing a hard limit on the timeframe for when the first inspection can occur (6 years as is in SB 313) is a problem. We recognize there are good actors who should be rewarded for keeping their property well maintained and safe so pushing the timeframe for an inspection to not more than 10 years is perfectly ok with us. However, there are some who should be inspected prior to the 6 years (as proposed in the bill) because of a communities past experience with the landlord, blight issues, etc. to make sure they are providing a safe environment for their lessees.

**4. Inspection Entry:** *Section 126 (5) lines 8-10: informing a lessee of their right to refuse inspection and requesting permission for inspection by the lessee.*

- It is the responsibility of the inspectors to make sure the building is safe and properly maintained. A refusal by the lessee prohibits them from doing their jobs and due diligence of ensuring the structure is sound and there are no blight problems. Because of this, a community may be forced to take legal action. This can ultimately cost the tax payers more money for the legal fees.
- Additionally, if there is a refusal for entry and the inspection cannot occur, the license won't be renewed. This could result in potential legal action with associated legal costs and ultimately an order to vacate the property. If language is going to be



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added into law saying the lessee must be informed of their right to refuse, additional language should be added advising the lessee of the local inspector's right to refuse to grant a license due to no inspection, and the potential legal action to require vacating the space until it is inspected.

- If the inspector is required to obtain permission from each lessee instead of the owner, this can take a lot of time to complete, and therefore cost more to administer the program by way of paying for staff time. In a time when staffing in communities have dwindled and people are now wearing multiple hats, this can greatly take away from their time doing something else for the community.

Please feel free to contact me with any additional questions or comments. I can be reached at 517-908-0305 or by email at [nbrown@mml.org](mailto:nbrown@mml.org).